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Attorneys for Plaintiff

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

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Advanta Bank Corp. as assignee of	:	
Preferred Capital Corporation	:	
1020 Laurel Oak Road,	:	
Voorhees, New Jersey 08043	:	
	:	
v. Plaintiff,	:	CIVIL ACTION NO.
	:	
R.R. Blimline, Inc., and Raymond Blimline	:	
3305 Penn Avenue	:	
West Lawn, PA 19609	:	
	:	
Defendants.	:	<u>COMPLAINT</u>
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THE PARTIES

1. Plaintiff, Advanta Business Services Corp. ("Advanta"), is a Leasing Company whose offices are located at 1020 Laurel Oak Road, Voorhees, New Jersey 08043.

2. Defendant, R.R. Blimline, Inc. ("R.R."), is a corporation, with offices located at 3305 Penn Avenue, West Lawn, PA 19609.

3. Defendant, Raymond Blimline ("Blimline"), is an individual who conducts business at 3305 Penn Avenue, West Lawn, PA 19609.

JURISDICTION

4. This Court has jurisdiction over this matter on the basis of diversity of citizenship pursuant to 28 U.S.C. Sections 1332 and 1367 and on the basis of 28 U.S.C. Sections 2201 and 2202.

VENUE

5. Venue is proper in this district pursuant to 28 U.S.C. Section 1391.

FACTUAL BACKGROUND

6. On or about April 27, 2000, Defendant R.R. entered into an Equipment Lease Agreement (the "Lease") with Preferred Capital Corporation ("Preferred"), whereby the former agreed to lease from the latter certain equipment for a period of 60 months in equal monthly installments of \$2,082.93. A true and correct copy of the Lease containing a detailed description of the leased equipment is attached hereto as Exhibit "A" and incorporated herein by reference.

7. The Lease was signed by Blimline as President of R.R. See Exhibit "A".

8. Upon the Defendants signing of the Lease and in reliance thereof, Preferred paid for the equipment in full. See true and correct copy of check from Preferred showing payment attached hereto as Exhibit "B" and incorporated herein by reference.

9. The Leased Equipment was delivered to and accepted by Defendant R.R.

10. Defendant R.R. executed an "Acknowledgment and Acceptance Certification" thereby certifying, inter alia, that the Leased Equipment was received, accepted, installed and in good operating order and that Preferred was to pay the vendor for the Leased Equipment. A true and correct copy of the Acknowledgment and Acceptance Certification is incorporated herein by reference and attached hereto as Exhibit "C".

11. On April 27, 2000, Defendant R.R. also entered into a Purchase Agreement with Preferred wherein Defendant R.R. irrevocably and unconditionally agreed to purchase the equipment covered in the Lease for \$8,681.00 at the end of the Lease and further agreed that if Defendant R.R. defaulted on the Lease, Defendant R.R. would pay the Plaintiff the remainder due under the Lease and the purchase price of \$8,681.00. See a true and correct copy of the Purchase Agreement attached hereto as Exhibit "D" and incorporated herein by reference.

12. On or about April 28, 2000, the Lease was assigned by Preferred to Advanta.

13. On or about April 28, 2000, Defendant was given written notice of the Assignment with instructions that future payments should be remitted to Advanta.

14. On or about April 28, 2000, Plaintiff Advanta contacted Defendants, via telephone, to confirm the Equipment was installed and in operating order. Plaintiff also received confirmation from the Defendants on the lease payments and billing address.

15. Defendant R.R. defaulted under the Lease by failing to, among other things, make the monthly lease payments when due.

16. Pursuant to the Lease and Purchase Agreement, the Defendant R.R. is currently indebted to Advanta in the amount of \$80,489.82 which represents the following:

Accelerated Balance:	\$67,253.20
Residual Value:	\$8,680.60
Sales Tax:	<u>\$4,556.02</u>
TOTAL:	\$80,489.82

17. Despite demand, the Defendant R.R. has failed, refused and neglected to make payment to Advanta in the amount of \$80,489.82.

18. Pursuant to paragraph 24 of the Lease, Defendant R.R. is liable for Plaintiff's attorneys' fees in the amount of \$16,097.96 (20% of \$80,489.82).

WHEREFORE, Plaintiff, Advanta Bank Corp., respectfully requests this Honorable Court to grant judgment in its favor and against Defendants R.R. Blimline, Inc., and Raymond Blimline, jointly and severally, in the amount of \$80,489.82 plus interest, costs, attorneys' fees in the amount of \$16,097.96 for a total of \$96,587.78 and such other further relief as this Court deems just and proper.

COUNT ONE

Breach of Contract

19. Paragraphs 1 through 18 above are incorporated herein by reference and made a part hereof.

20. Among other things, Defendant R.R.'s refusal to remit the monies due and owing to Plaintiff constitutes a breach of contract.

WHEREFORE, Plaintiff, Advanta Bank Corp., respectfully requests this Honorable Court to grant judgment in its favor and against Defendants R.R. Blimline, Inc., and Raymond Blimline, jointly and severally, in the amount of \$80,489.82 plus interest, costs, attorneys' fees in the amount of \$16,097.96 for a total of \$96,587.78 and such other further relief as this Court deems just and proper.

COUNT TWO
Breach of Guaranty

21. Paragraphs 1 through 20 above are incorporated herein by reference and made a part hereof.

22. Contemporaneous with the execution of the Lease and as an additional inducement therefore, Defendant Blimline executed a Guaranty unconditionally guaranteeing, inter alia, payment to Lessor of any and all monies due from the Lessee pursuant to the Lease and/or other related documents. A true and correct copy of the Guaranty is incorporated herein by reference and attached hereto as Exhibit "E".

23. Defendant Blimline defaulted under the Guaranty by failing to, among other things, make the monthly lease payments when due.

24. Pursuant to the Lease, Purchase Agreement, and Guaranty the Defendant Blimline

is currently indebted to Advanta in the amount of \$80,489.82 which represents the following:

Accelerated Balance:	\$67,253.20
Residual Value:	\$8,680.60
Sales Tax:	<u>\$4,556.02</u>
TOTAL:	\$80,489.82

25. Despite demand, the Defendant Blimline has failed, refused and neglected to make payment to Advanta in the amount of \$80,489.82.

26. Pursuant to paragraph 24 of the Lease, Defendant Blimline is liable for Plaintiff's attorneys' fees in the amount of \$16,097.96 (20% of \$80,489.82).

WHEREFORE, Plaintiff, Advanta Bank Corp., respectfully requests this Honorable Court to grant judgment in its favor and against Defendants R.R. Blimline, Inc., and Raymond Blimline, jointly and severally, in the amount of \$80,489.82 plus interest, costs, attorneys' fees in the amount of \$16,097.96 for a total of \$96,587.78 and such other further relief as this Court deems just and proper.

COUNT III
Quantum Meruit

27. Paragraphs 1 through 26 above are incorporated herein by reference and made a part hereof.

28. To the extent that Defendants have benefitted from the equipment and/or services of Plaintiff and not having paid for them, Defendants have become unjustly enriched at Plaintiff's expense.

WHEREFORE, Plaintiff, Advanta Bank Corp., respectfully requests this Honorable Court to grant judgment in its favor and against Defendants R.R. Blimline, Inc., and Raymond

Blimline, jointly and severally, in the amount of \$80,489.82 plus interest, costs, attorneys' fees in the amount of \$16,097.96 for a total of \$96,587.78 and such other further relief as this Court deems just and proper.

Respectfully submitted,

Ivy M. Kempf, Esquire
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Philadelphia, PA 19102
Attorney for Plaintiff,

Dated: